

# HOUSE JOINT RESOLUTION NO. 57

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ELLINGTON.

4184H.011

D. ADAM CRUMBLISS, Chief Clerk

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### JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article X of the Constitution of Missouri, and adopting one new section relating to the regulation and taxation of marijuana.

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*Be it resolved by the House of Representatives, the Senate concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2016, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article X of the Constitution of the state of Missouri:

Section A. Article X, Constitution of Missouri, is amended by adding one new section, to be known as section 25, to read as follows:

**Section 25. 1. As used in this section, unless the context requires otherwise, the following terms mean:**

- (1) "Consumer", a person twenty-one years of age or older who purchases marijuana or marijuana products for personal use by persons twenty-one years of age or older, but not for resale to others;**
- (2) "Department", the department of revenue or its successor agency;**
- (3) "Industrial hemp", the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry-weight basis;**
- (4) "Locality", a town, village, city, county, or city not within a county;**
- (5) "Marijuana" or "marihuana", all parts of the plant of the genus cannabis**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 whether growing or not, the seeds thereof, the resin extracted from any part of the plant,  
13 and every compound, manufacture, salt, derivative, mixture, or preparation of the plant,  
14 its seeds, or its resin, including marihuana concentrate. "Marijuana" or "marihuana"  
15 does not include industrial hemp, nor does it include fiber produced from the stalks, oil,  
16 or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of  
17 germination, or the weight of any other ingredient combined with marijuana to prepare  
18 topical or oral administrations, food, drink, or other product;

19 (6) "Marijuana accessories", any equipment, products, or materials of any kind  
20 which are used, intended for use, or designed for use in planting, propagating, cultivating,  
21 growing, harvesting, composting, manufacturing, compounding, converting, producing,  
22 processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or  
23 containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into  
24 the human body;

25 (7) "Marijuana cultivation facility", an entity licensed to cultivate, prepare, and  
26 package marijuana and sell marijuana to retail marijuana stores, to marijuana product  
27 manufacturing facilities, and to other marijuana cultivation facilities, but not to  
28 consumers;

29 (8) "Marijuana establishment", a marijuana cultivation facility, a marijuana  
30 testing facility, a marijuana product manufacturing facility, or a retail marijuana store;

31 (9) "Marijuana product manufacturing facility", an entity licensed to purchase  
32 marijuana; manufacture, prepare, and package marijuana products; and sell marijuana  
33 and marijuana products to other marijuana product manufacturing facilities and to retail  
34 marijuana stores, but not to consumers;

35 (10) "Marijuana products", concentrated marijuana products and marijuana  
36 products that are comprised of marijuana and other ingredients and are intended for use  
37 or consumption, including, but not limited to, edible products, ointments, and tinctures;

38 (11) "Marijuana testing facility", an entity licensed to analyze and certify the safety  
39 and potency of marijuana;

40 (12) "Retail marijuana store", an entity licensed to purchase marijuana from  
41 marijuana cultivation facilities and marijuana and marijuana products from marijuana  
42 product manufacturing facilities and to sell marijuana and marijuana products to  
43 consumers;

44 (13) "Unreasonably impracticable", the measures necessary to comply with the  
45 regulations require such a high investment of risk, money, time, or any other resource or  
46 asset that the operation of a marijuana establishment is not worthy of being carried out in  
47 practice by a reasonably prudent businessperson.

48           **2. (1) In the interest of the efficient use of law enforcement resources, enhancing**  
49 **revenue for public purposes, and individual freedom, the people of the state of Missouri**  
50 **find and declare the use of marijuana shall be legal for persons twenty-one years of age or**  
51 **older and taxed in a manner similar to alcohol.**

52           **(2) In the interest of the health and public safety of our citizens, the people of the**  
53 **state of Missouri further find and declare that marijuana shall be regulated in a manner**  
54 **similar to alcohol so that:**

55           **(a) Individuals shall show proof of age before purchasing marijuana;**

56           **(b) Selling, distributing, or transferring marijuana to minors and other individuals**  
57 **under the age of twenty-one shall remain illegal;**

58           **(c) Driving under the influence of marijuana shall remain illegal;**

59           **(d) Legitimate, taxpaying business people will conduct sales of marijuana; and**

60           **(e) Marijuana sold in this state shall be labeled and subject to additional**  
61 **regulations to ensure that consumers are informed and protected.**

62           **(3) In the interest of enacting rational policies for the treatment of all variations of**  
63 **the cannabis plant, the people of Missouri further find and declare that industrial hemp**  
64 **shall be regulated separately from strains of cannabis with higher delta-9**  
65 **tetrahydrocannabinol (THC) concentrations.**

66           **(4) The people of the state of Missouri further find and declare it is necessary to**  
67 **ensure consistency and fairness in the application of this section throughout the state and,**  
68 **therefore, the matters addressed by this section are, except as specified herein, matters of**  
69 **statewide concern.**

70           **3. Notwithstanding any other provision of law, the following acts are not unlawful**  
71 **and shall not be an offense under Missouri law or the law of any locality within Missouri**  
72 **or be a basis for seizure or forfeiture of assets under Missouri law for persons twenty-one**  
73 **years of age or older:**

74           **(1) Possessing, using, displaying, purchasing, or transporting marijuana accessories**  
75 **or one ounce or less of marijuana;**

76           **(2) Possessing, growing, processing, or transporting no more than six marijuana**  
77 **plants, with three or fewer being mature, flowering plants, and possession of the marijuana**  
78 **produced by the plants on the premises where the plants were grown, provided that the**  
79 **growing takes place in an enclosed, locked space, is not conducted openly or publicly, and**  
80 **is not made available for sale;**

81           **(3) Transfer of one ounce or less of marijuana without remuneration to a person**  
82 **who is twenty-one years of age or older;**

83           **(4) Consumption of marijuana, provided that nothing in this section shall permit**  
84 **consumption that is conducted openly and publicly or in a manner that endangers others;**

85           **(5) Assisting another person who is twenty-one years of age or older in any of the**  
86 **acts described in subdivisions (1) through (4) of this subsection.**

87           **4. Notwithstanding any other provision of law, the following acts are not unlawful**  
88 **and shall not be an offense under Missouri law or be a basis for seizure or forfeiture of**  
89 **assets under Missouri law for persons twenty-one years of age or older:**

90           **(1) Manufacture, possession, or purchase of marijuana accessories or the sale of**  
91 **marijuana accessories to a person who is twenty-one years of age or older;**

92           **(2) Possessing, displaying, or transporting marijuana or marijuana products;**  
93 **purchase of marijuana from a marijuana cultivation facility; purchase of marijuana or**  
94 **marijuana products from a marijuana product manufacturing facility; or sale of**  
95 **marijuana or marijuana products to consumers, if the person conducting the activities**  
96 **described in this subdivision has obtained a current, valid license to operate a retail**  
97 **marijuana store or is acting in his or her capacity as an owner, employee, or agent of a**  
98 **licensed retail marijuana store;**

99           **(3) Cultivating, harvesting, processing, packaging, transporting, displaying, or**  
100 **possessing marijuana; delivery or transfer of marijuana to a marijuana testing facility;**  
101 **selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing**  
102 **facility, or a retail marijuana store; or the purchase of marijuana from a marijuana**  
103 **cultivation facility, if the person conducting the activities described in this subdivision has**  
104 **obtained a current, valid license to operate a marijuana cultivation facility or is acting in**  
105 **his or her capacity as an owner, employee, or agent of a licensed marijuana cultivation**  
106 **facility;**

107           **(4) Packaging, processing, transporting, manufacturing, displaying, or possessing**  
108 **marijuana or marijuana products; delivery or transfer of marijuana or marijuana**  
109 **products to a marijuana testing facility; selling marijuana or marijuana products to a**  
110 **retail marijuana store or a marijuana product manufacturing facility; the purchase of**  
111 **marijuana from a marijuana cultivation facility; or the purchase of marijuana or**  
112 **marijuana products from a marijuana product manufacturing facility, if the person**  
113 **conducting the activities described in this subdivision has obtained a current, valid license**  
114 **to operate a marijuana product manufacturing facility or is acting in his or her capacity**  
115 **as an owner, employee, or agent of a licensed marijuana product manufacturing facility;**

116           **(5) Possessing, cultivating, processing, repackaging, storing, transporting,**  
117 **displaying, transferring, or delivering marijuana or marijuana products if the person has**

118 **obtained a current, valid license to operate a marijuana testing facility or is acting in his**  
119 **or her capacity as an owner, employee, or agent of a licensed marijuana testing facility;**

120 **(6) Leasing or otherwise allowing the use of property owned, occupied, or**  
121 **controlled by any person, corporation, or other entity for any of the activities conducted**  
122 **lawfully in accordance with subdivisions (1) through (5) of this subsection.**

123 **5. (1) Not later than July 1, 2018, the department shall adopt rules and regulations**  
124 **necessary for implementation of this section. Such rules and regulations shall not prohibit**  
125 **the operation of marijuana establishments, either expressly or through rules and**  
126 **regulations that make their operation unreasonably impracticable. Such rules and**  
127 **regulations shall include:**

128 **(a) Procedures for the issuance, renewal, suspension, and revocation of a license to**  
129 **operate a marijuana establishment, with such procedures subject to all requirements of**  
130 **chapter 536 of the Revised Statutes of Missouri or successor provisions;**

131 **(b) A schedule of application, licensing, and renewal fees, provided that, the**  
132 **application fees shall not exceed five thousand dollars, with this upper limit adjusted**  
133 **annually for inflation, unless the department determines a greater fee is necessary to carry**  
134 **out its responsibilities under this section;**

135 **(c) Qualifications for licensure that are directly and demonstrably related to the**  
136 **operation of a marijuana establishment;**

137 **(d) Security requirements for marijuana establishments;**

138 **(e) Requirements to prevent the sale or diversion of marijuana and marijuana**  
139 **products to persons under the age of twenty-one;**

140 **(f) Labeling requirements for marijuana and marijuana products sold or**  
141 **distributed by a marijuana establishment;**

142 **(g) Health and safety regulations and standards for the manufacture of marijuana**  
143 **products and the cultivation of marijuana;**

144 **(h) Restrictions on the advertising and display of marijuana and marijuana**  
145 **products; and**

146 **(i) Civil penalties for the failure to comply with regulations made under this**  
147 **section.**

148 **(2) In order to ensure the most secure, reliable, and accountable system for the**  
149 **production and distribution of marijuana and marijuana products in accordance with this**  
150 **subsection, in any competitive application process the department shall have as a primary**  
151 **consideration whether an applicant has prior experience producing or distributing**  
152 **marijuana or marijuana products under this section or a comparable law in another**  
153 **jurisdiction;**

154           **(3) In order to ensure that individual privacy is protected, the department shall not**  
155 **require a consumer to provide a retail marijuana store with personal information other**  
156 **than government-issued identification to determine the consumer's age, and a retail**  
157 **marijuana store shall not be required to acquire and record personal information about**  
158 **consumers other than information typically acquired in a financial transaction conducted**  
159 **at a retail liquor store.**

160           **6. The general assembly shall enact an excise tax to be levied upon marijuana sold**  
161 **or otherwise transferred by a marijuana cultivation facility to a marijuana product**  
162 **manufacturing facility or to a retail marijuana store at a rate not to exceed fifteen percent**  
163 **prior to January 1, 2022, and at a rate to be determined by the general assembly thereafter**  
164 **and shall direct the department to establish procedures for the collection of all taxes levied.**  
165 **All such excise tax revenue shall be deposited to the credit of the general revenue; provided**  
166 **however, that no more than five percent shall be used for programs involving early**  
167 **childhood education and social services and that no such excise tax revenue shall be used**  
168 **to fund any pension or public retirement plan.**

169           **7. (1) Not later than October 1, 2018, each locality shall enact an ordinance or**  
170 **regulation specifying the entity within the locality that is responsible for processing**  
171 **applications submitted for a license to operate a marijuana establishment within the**  
172 **boundaries of the locality and for the issuance of such licenses should the issuance by the**  
173 **locality become necessary because of a failure by the department to adopt regulations**  
174 **under subdivision (1) of subsection 5 of this section or because of a failure by the**  
175 **department to process and issue licenses under subsection 8 of this section.**

176           **(2) A locality may enact ordinances or regulations, not in conflict with this section**  
177 **or with rules and regulations or legislation enacted under this section, governing the time,**  
178 **place, manner, and number of marijuana establishment operations; establishing**  
179 **procedures for the issuance, suspension, and revocation of a license issued by the locality**  
180 **in accordance with subsection 9 or 10 of this section; establishing a schedule of annual**  
181 **operating, licensing, and application fees for marijuana establishments, provided that, the**  
182 **application fee shall only be due if an application is submitted to a locality in accordance**  
183 **with subsection 10 of this section and a licensing fee shall only be due if a license is issued**  
184 **by a locality in accordance with subsection 9 or 10 of this section; and establishing civil**  
185 **penalties for violation of an ordinance or regulation governing the time, place, and manner**  
186 **of a marijuana establishment that may operate in such locality. A locality may prohibit**  
187 **the operation of marijuana cultivation facilities, marijuana product manufacturing**  
188 **facilities, marijuana testing facilities, or retail marijuana stores through the enactment of**  
189 **an ordinance or through an initiated or referred measure; provided that, any initiative or**

190 referendum measure to prohibit the operation of marijuana cultivation facilities,  
191 marijuana product manufacturing facilities, marijuana testing facilities, or retail  
192 marijuana stores shall appear on a general election ballot.

193       **8. Each application for an annual license to operate a marijuana establishment**  
194 **shall be submitted to the department. The department shall:**

195       **(1) Begin accepting and processing applications on October 1, 2018;**

196       **(2) Immediately forward a copy of each application and half of the license**  
197 **application fee to the locality in which the applicant desires to operate the marijuana**  
198 **establishment;**

199       **(3) Issue an annual license to the applicant between forty-five and ninety days after**  
200 **receipt of an application unless the department finds the applicant is not in compliance**  
201 **with rules and regulations enacted under subdivision (1) of subsection 5 of this section or**  
202 **the department is notified by the relevant locality that the applicant is not in compliance**  
203 **with ordinances and regulations made under subdivision (2) of subsection 7 of this section**  
204 **at the time of application, provided that, if a locality has enacted a numerical limit on the**  
205 **number of marijuana establishments and a greater number of applicants seek licenses, the**  
206 **department shall solicit and consider input from the locality as to the locality's preference**  
207 **or preferences for licensure; and**

208       **(4) Upon denial of an application, notify the applicant in writing of the specific**  
209 **reason for denial.**

210       **9. If the department does not issue a license to an applicant within ninety days of**  
211 **receipt of the application filed in accordance with subsection 8 of this section and does not**  
212 **notify the applicant of the specific reason for the denial, in writing and within such time**  
213 **period, or if the department has adopted rules and regulations under subdivision (1) of**  
214 **subsection 5 of this section and has accepted applications under subsection 8 of this section**  
215 **but has not issued any licenses by January 1, 2019, the applicant may resubmit its**  
216 **application directly to the locality, under subdivision (1) of subsection 7 of this section, and**  
217 **the locality may issue an annual license to the applicant. A locality issuing a license to an**  
218 **applicant shall do so within ninety days of receipt of the resubmitted application unless the**  
219 **locality finds and notifies the applicant that the applicant is not in compliance with**  
220 **ordinances and regulations made under subdivision (1) of subsection 7 of this section and**  
221 **the locality shall notify the department if an annual license has been issued to the**  
222 **applicant. If an application is submitted to a locality under this subsection, the department**  
223 **shall forward to the locality the application fee paid by the applicant to the department**  
224 **upon request by the locality. A license issued by a locality in accordance with this**  
225 **subsection shall have the same force and effect as a license issued by the department in**

226 accordance with subsection 8 of this section and the holder of such license shall not be  
227 subject to regulation or enforcement by the department during the term of the license. A  
228 subsequent or renewed license may be issued under this subsection on an annual basis only  
229 upon resubmission to the locality of a new application submitted to the department under  
230 subsection 8 of this section.

231 **10. If the department does not adopt rules and regulations required by subsection**  
232 **5 of this section, an applicant may submit an application directly to a locality after October**  
233 **1, 2018, and the locality may issue an annual license to the applicant. A locality issuing a**  
234 **license to an applicant shall do so within ninety days of receipt of the application unless it**  
235 **finds and notifies the applicant that the applicant is not in compliance with ordinances and**  
236 **regulations made under subdivision (2) of subsection 7 of this section and shall notify the**  
237 **department if an annual license has been issued to the applicant. A license issued by a**  
238 **locality in accordance with this subsection shall have the same force and effect as a license**  
239 **issued by the department in accordance with subsection 8 of this section and the holder of**  
240 **such license shall not be subject to regulation or enforcement by the department during the**  
241 **term of that license. A subsequent or renewed license may be issued under this subsection**  
242 **on an annual basis if the department has not adopted regulations required by subsection**  
243 **5 of this section at least ninety days prior to the date upon which such subsequent or**  
244 **renewed license would be effective or if the department has adopted regulations but has**  
245 **not, at least ninety days after the adoption of such regulations, issued licenses under**  
246 **subsection 8 of this section.**

247 **11. Not later than July 1, 2019, the general assembly shall enact legislation**  
248 **governing the cultivation, processing, and sale of industrial hemp.**

249 **12. Nothing in this section is intended to require an employer to permit or**  
250 **accommodate the use, consumption, possession, transfer, display, transportation, sale, or**  
251 **growing of marijuana in the workplace or to affect the ability of employers to have policies**  
252 **restricting the use of marijuana by employees.**

253 **13. Nothing in this section is intended to allow driving under the influence of**  
254 **marijuana or driving while impaired by marijuana or to supersede statutory laws related**  
255 **to driving under the influence of marijuana or driving while impaired by marijuana, nor**  
256 **shall this section prevent the state from enacting and imposing penalties for driving under**  
257 **the influence of or while impaired by marijuana.**

258 **14. Nothing in this section is intended to permit the transfer of marijuana, with or**  
259 **without remuneration, to a person under the age of twenty-one or to allow a person under**  
260 **the age of twenty-one to purchase, possess, use, transport, grow, or consume marijuana.**

261           **15. Nothing in this section shall prohibit a person, employer, school, hospital,**  
262 **detention facility, corporation, or any other entity who occupies, owns, or controls a**  
263 **property from prohibiting or otherwise regulating the possession, consumption, use,**  
264 **display, transfer, distribution, sale, transportation, or growing of marijuana on or in such**  
265 **property.**

266           **16. All provisions of this section are self-executing except as specified herein, are**  
267 **severable, and, except where otherwise indicated in the text, shall supersede conflicting**  
268 **state statutory, local charter, ordinance, or resolution, and other state and local provisions.**

269           **17. The provisions of this section shall become effective thirty days after majority**  
270 **approval of this section as provided by Article XII, Section 2(b) of the Missouri**  
271 **Constitution.**

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